

SENATE BILL 2701

By Bell

AN ACT to amend Tennessee Code Annotated, Title 67,  
Chapter 6, Part 3, relative to exemptions from  
sales and use tax

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by  
adding the following as a new, appropriately designated section:

67-6-3\_\_.

(a) For purposes of this section:

(1) "Claimant" means any natural person receiving disaster assistance through the federal emergency management agency (FEMA), receiving an insurance settlement, or filing an insurance claim for damages, as a result of a disaster in this state occurring between March 23, 2011, and May 12, 2011;

(2) "Major appliance" means any water heater, dishwasher, washer, dryer, refrigerator, freezer, stove, range, oven, cooktop, microwave, vacuum, or fan that is used in the claimant's primary residence to replace an appliance that was damaged or destroyed in a disaster in this state occurring between March 23, 2011, and May 12, 2011; provided, that the sales price per item is three thousand two hundred dollars (\$3,200) or less;

(3) "Residential building supplies" means any of the following items if used in the claimant's primary residence and reasonably determined by the department to be for purposes of restoration, repair, replacement, or rebuilding due to a disaster in this state occurring between March 23, 2011, and May 12, 2011; provided, that the sales price per item is five hundred dollars (\$500) or less:

(A) Cleaning and disinfecting materials as determined by the department;

(B) Trash bags, boxes, construction tools, and hardware, as determined by the department;

(C) Roofing shingles, roofing paper, gutters, downspouts, vents, doors, windows, sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary building materials, as determined by the department; and

(4) "Residential furniture" means furniture commonly used in a residential dwelling, as determined by the department, that is used in the claimant's primary residence to replace furniture that was damaged or destroyed in a disaster in this state occurring between March 23, 2011, and May 12, 2011; provided, that the sales price per item is three thousand two hundred dollars (\$3,200).

(b)

(1) Except as otherwise provided in this section, a claimant shall be entitled to a refund equal to the total amount of Tennessee state and local sales and use tax paid by the claimant to one (1) or more retailers as a result of the claimant's purchases of major appliances, residential furniture, or residential building supplies from such retailers; provided, that such purchases occur between 12:01 a.m. on March 23, 2011, and 11:59 p.m. on December 31, 2011, or between 12:00 a.m. on January 1, 2012, and 11:59 p.m. on April 30, 2012.

(2) The total amount refunded under this section in connection with any one (1) residence shall not exceed two thousand five hundred dollars (\$2,500).

(c)

(1)

(A) To receive a refund under this section, a claimant shall file a single application with the department, that shall include the aggregate amount requested by the claimant in connection with all eligible purchases described in subsection (b) on or before:

(i) February 29, 2012, for purchases made prior to January 1, 2012; or

(ii) June 30, 2012, for purchases made prior to May 1, 2012, including eligible purchases made during the period between March 23, 2011, and December 31, 2011, for which no claim for refund has been filed.

(B) Except as provided in subdivision (c)(2), only one (1) application per residence shall be allowed.

(2) Any claimant who filed an application on or before February 29, 2012, and who did not receive a refund in an amount equal to two thousand five hundred dollars (\$2,500) may file one (1) additional refund application on or before June 30, 2012, for eligible purchases made during the period between March 23, 2011, and December 31, 2011, for which no claim for refund has been filed, or eligible purchases made after December 31, 2011, but prior to May 1, 2012. The claimant shall be eligible for a refund up to the difference between the amount of any initial refund received and two thousand five hundred dollars (\$2,500).

(d) Notwithstanding § 67-1-1802, such refund shall be made by the department directly to the claimant and shall not be made by the retailer to the claimant.

(e) All applications for refund shall be submitted as prescribed by the department and shall include satisfactory proof of:

(1)

(A) The receipt of federal disaster assistance;

(B) The receipt of an insurance settlement, to be accompanied by documentation verifying insurance coverage for the losses and that the damages were caused by the disaster; or

(C) The submission of a certified insurance claim for damages resulting from the disaster, which shall include a copy of the claim; the name of the insurance company, policy number, and contact information; and photographs of the flooded areas of the property, living areas, and any damaged tangible personal property;

(2) Eligible purchases;

(3) Tennessee taxes paid on such purchases; and

(4) Any other information or documentation that the department may require, including, but not limited to, store receipts and copies of payment documents such as checks, credit card receipts, or a sworn statement under penalty of perjury to support any purchases made using cash.

(f) The department shall develop guidelines concerning the administration of this section, which shall be posted on the web site of the department. The commissioner is granted broad discretion to administer the refund process in a manner that the commissioner deems necessary to quickly, efficiently, and accurately carry out the purposes of this section.

(g) The department may assess a civil penalty not to exceed twenty-five thousand dollars (\$25,000) against any person that knowingly files a false or fraudulent

application for refund under this section. Any claimant that is assessed a penalty under this subsection (g) shall be entitled to the remedies provided in § 67-1-1801.

(h) It is the intent of the general assembly to appropriate a sum sufficient in the general appropriations act for the purpose of funding this section. Implementation of this section is contingent upon such appropriation. All refunds under this section shall be paid from the state's general fund and nothing in this section shall be construed to reduce the amount of sales and use tax payable to local governments.

(i) This section is repealed January 1, 2013.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.